

### REMARKS

In view of the following remarks and the foregoing amendments, reconsideration and allowance are respectfully requested.

Claims 1-12, 16-26 and 31-42 are pending at the time of this action, with Claims 1, 16, 23, 31, and 38 being independent. Claims 13-15 and 27-30 were previously cancelled.

Claims reciting the “pre-determined reliability requirement” stand rejected because the language is allegedly unclear and vague. This contention is respectfully traversed.

Claims 1-12, 16-26, and 31-42 stand rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Rudy et al. in view of Park et al. Claims 33-37, 42 stand rejected under 35 U.S.C. 103 as allegedly being unpatentable over Rudy, Park, and Gross. These contentions are respectfully traversed.

#### Interview with Examiner

Applicants' representative had a telephonic conversation with the Examiner on June 13, 2006, in which the examiner stated that pages 12-15 of the office action had typographical errors, and there should not be a rejection to Claims 33-37, 42 in view of the combination of Rudy, Park, and Gross. In particular, the Examiner stated that Gross should not have been listed as a basis for a rejection to the claims under 35 U.S.C. 103, and should not be combined with Rudy and Park for the rejection. The Examiner stated that any statements of a rejection under 35 U.S.C. 103 in the office action using Gross as a basis for the rejection have been withdrawn by the Examiner. Therefore, the rejections to Claims 33-37, 42 under 35 U.S.C. 103 in view of the combination of Rudy, Park, and Gross are now moot.

#### 35 U.S.C. 112, second paragraph

Claims 1, 16, 23, 31, 32, and 38 are patentable at least because these claims particularly point out and distinctly claim patentable subject matter. For example, Claim 1 recites “**first information to be transmitted to a destination across network link with a pre-determined reliability requirement,**” and “separately preparing, at a second processing unit in the source device separate from the first processing unit, **second information to be transmitted to the destination, wherein the second information does not have a pre-determined reliability**

**requirement**” (emphasis added). All of the features of the claims are explained in the specification. The specification clearly explains separately preparing reliable and unreliable information in a single source device by different elements and putting the reliable and unreliable information together in a stream. For example, page 5, paragraphs 17-18 of specification states the following about the reliability requirements in splitting up the framing and processing work between information with a reliability requirement and information without a reliability requirement.

The mobile fp unit 308 **processes information requiring reliable transmission (called “reliable information”)** across the active interface 304 in an application specific way, frames the information, processes **information not requiring reliable transmission (called “unreliable information”)** in an application specific way, frames the information, and processes the framed reliable and unreliable information in a stream specific way. (emphasis added)

Hence, claim terms are explained in the specification.

Moreover, the office action interpreted the “pre-determined reliability requirement” cited in the claims to mean “TCP/IP.” However, page 25, paragraph 70 of the specification states the following about the reliability requirements recited in the claims.

The elements discussed with reference to FIGS. 2-7 can be implemented in a variety of ways. The mobile device 202 and the home network 204 **are not limited to communicating with each other across an interface using the TCP protocol**. Any protocol that offers reliability such as TCP, modified forms of TCP, reliable User Datagram Protocol (UDP), reliable layer two links, and other similar protocols can be used in the network configuration 200 and adapted to the described examples.

**Reliability in this context generally refers to transparently providing seamless connectivity, e.g., error detection, flow control, packet recovery, bandwidth control, security, etc., even if the interface between the mobile device 202 and the home network 204 changes.** (emphasis added).

Therefore, the meaning of the “pre-determined reliability requirement” is clearly described in the original specification and is not limited to the interpretation defined in the office action. For this reason, the rejection 35 U.S.C. 112, second paragraph to Claims 1, 16, 23, 31, 32, and 38 under is improper and the rejection should be withdrawn.

35 U.S.C. 103 - Claims 1-12, 16-26 and 31-42

Claim 1 is patentable over Rudy and Park, alone or in combination, at least because these references fail to teach each and every feature of the claim. Rudy teaches a technique for avoiding attachment presentation problems in email by transferring an email attachment to a device that can render it for presentation to the user (Rudy: Abstract; Col. 1, lines 63-66). However, as acknowledged on page 4, item 8 of the office action, Rudy does not disclose “a pre-determined reliability requirement; and preparing, at a stream of processing unit in the source device, a data stream comprising the first and second information to be transmitted across the network link.” So the office action attempts to use the teachings of Park to remedy all of the deficiencies of Rudy.

Park discloses techniques to transmit a video bit stream by using two logic channels, in which source data is encoded onto the bit stream, and header information is added to a data payload for each communication protocol layer in a communication network while the bits stream is being transmitted (Park: Abstract; paragraphs 11-16). Each protocol layer (e.g., UDP, TCP) can separately transceive header and payload information (Park: Abstract; paragraphs 11-16). For example, Park teaches in paragraphs-30- 32 to separate a header portion and a payload portion of a video stream for UDP and TCP transmissions, respectively. However, both of these types of transmissions are reliable transmissions with a reliability requirement (specification: page 25, paragraph 70). Therefore, Park doesn't teach or suggest splitting up the framing and processing work between **information with a reliability requirement and information without a reliability requirement**.

Furthermore, the suggested combination of Park and Rudy fails to provide all of the advantages of Claim 1. For example, the specification explains that “by splitting the framing into multiple stages, application specific processing such as mobility hand off processing **can be performed at the proper place for information following different transmission policies and requiring different transmission guarantees**” (specification: page 5, paragraph 18). In another example, the specification also explains that “the mobile fp unit 308 can **skip one or more processing operations in processing unreliable information** for transmission on the active interface 304, thereby potentially **saving processing resources and/or speeding up the transmission of unreliable information** onto the active interface 304” (specification: pages 5-6,

paragraph 18). The suggested combination of Rudy and Park fails to provide the advantages of Claim 1.

For at least these reasons, Claim 1 is distinctly patentable over the suggested combination of Park and Rudy.

No Motivation to Combine

Claim 1 is further patentable over Rudy and Park, alone or in combination, at least because these references fail to provide a motivation to combine. The office action alleges that it would have been obvious to one of ordinary skill in the art at the time of the inventor to combine Park with Rudy (office action: page 4, item 10). However, the level of skill in the art cannot be relied upon to provide the suggestion to combine references, and the PTO must provide evidence to show the level of skill in the art at the time of the invention, as well as the motivation to combine. *Al-Site Corp. v. VSI Int'l Inc.*, 174 F.3d 1308, 50 USPQ2d 1161 (Fed. Cir. 1999) (MPEP 2143.01). The PTO has not made evidence of record here to meet those requirements.

Moreover, just because references can be combined or modified does not render the proposed combination obvious, unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990) (MPEP 2143.01). Since the office action acknowledges that Rudy does not disclose “a pre-determined reliability requirement; and preparing, at a stream of processing unit in the source device, a data stream comprising the first and second information to be transmitted across the network link,” Rudy does not provide a motivation to combine all of these features in the suggested combination (Office Action: page 4, item 8).

The office action then turns to Park to provide a motivation to combine. In particular, the office action alleges that page 1, paragraph 10 of Park provides a motivation to combine. However, Park teaches in this paragraph that wireless data communication can cause packet loss and bit errors (Park: page 1, paragraph 10). This teaching of Park does not provide motivation for separately preparing reliable and unreliable information in a single source device by different elements and putting the reliable and unreliable information together in a stream. Therefore, Park's teaching of packet loss and bit errors for wireless data communications does not provide a motivation to combine. Park does not disclose a motivation to combine all the features of Claim 1.

The office action also alleges paragraph 32 of Park provides a motivation to combine. Park teaches in paragraph 32 to separate a header portion and a payload portion of a video stream in UDP and TCP transmissions, respectively. However, both of these types of transmissions are reliable transmissions (specification: page 25, paragraph 70). Therefore, Park doesn't teach any motivation for splitting up the framing and processing work between information with a reliability requirement and information without a reliability requirement.

Since the references did not provide a motivation to combine, and that motivation to combine the references was not explained and provided in the office action, then the rejection to Claim 1 under 35 U.S.C. 103 is improper, and a *prima facie* case of obviousness has not been established.

Claims 16, 23, 31, and 38

Claims 16, 23, 31, and 38 include patentable subject matter similar to Claim 1, as described above. These claims are patentable over the suggested combination of Rudy and Park for at least the same reasons described above with respect to Claim 1. The Applicants respectfully request that these claims be allowed.

Claims 2-12, 17-22, 24-26, 32-37, 39-42

Claims 2-12, 17-22, 24-26, 32-37, 39-42 are all patentable because they all depend from an allowable base claim, and all recite allowable subject matter in their own right.


CONCLUSION

In view of the amendments and remarks herein, the Applicants believe that Claims 1-12, 16-26, and 31-42 are in condition for allowance and ask that these pending claims be allowed. The foregoing comments made with respect to the positions taken by the Examiner are not to be construed as acquiescence with other positions of the Examiner that have not been explicitly contested. Accordingly, the arguments for patentability of a claim should not be construed as implying that there are not other valid reasons for patentability of that claim or other claims.

Applicant believes that no fees are due at this time. If Applicant is mistaken, please apply any charges or credits to deposit account 06-1050.

Respectfully submitted,

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Dwight U. Thompson  
Reg. No. 53,688

Fish & Richardson P.C.  
12390 El Camino Real  
San Diego, California 92130  
Telephone: (858) 678-5070  
Facsimile: (858) 678-5099

DUT/jhg  
10626161.doc